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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,932

02/05/2004

Salvatore Cirami

3788

7590 06/30/2008  
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EXAMINER

QUIETT, CARRAMAH J

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

06/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/771,932

**Applicant(s)**

CIRAMI, SALVATORE

**Examiner**

Carramah J. Quiett

**Art Unit**

2622

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 12 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 12 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/14/2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. The amendment(s), filed on 01/25/2008, have been entered and made of record. Claims 1, 12, and 21 are pending.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 12, and 21 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 12, and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over and Kelly (#6,067,190) in view of Jamel (#4,235,541) and Pieri et al. (#6,377,541).

For **claim 1**, Kelly discloses a binocucorder (figs. 1/5), comprising:

a camcorder (120/122) including image processing elements and a line-of-sight (col. 7, lines 25-38);

a binocular (104) including first and second tubular body portions which are spaced apart parallel to each other, each having a forward end incorporating an objective lens, having an effective line-of- sight centered between said objective lenses parallel to said tubular body

portions, said camcorder being mounted on said binocular. Please read col. 5, line 18 – col. 6, line 11; col. 6, line 30 – col. 7, line 38.

However, Kelly does not expressly teach periscope means mounted on said camcorder adapted to\* receive incident light on said binocular effective line-of-sight and reflect said light onto said camcorder line-of-sight into said image processing elements of said camcorder.

In a similar field of endeavor, Jamel discloses [a] periscope means mounted on a camera adapted to\* receive incident light and reflect said light onto said camera line-of-sight into said image processing elements of said camera (col. 1, line 20 – col. 62 line 9). In light of the teaching of Jamel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the binocucorder of Kelly with the binocucorder as recited in claim 1 order to take images of subject in a crowd (Jamel col. 1, lines 1-10).

However, Jamel does not expressly disclose [a] periscope means adapted to\* receive incident light on said binocular effective line-of-sight.

In a similar field of endeavor, Pieri discloses [a] periscope means adapted to\* receive incident light on said binocular effective line-of-sight (col. 12, lines 35-49). In light of the teaching of Pieri, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the binocucorder of Kelly, as modified by Jamel, with the binocucorder as recited in claim 1 order to improve the magnification ratio of the image which can be better observed (col. 12, lines 50-59).

For **claim 12**, Kelly, as modified by Jamel and Pieri, discloses in combination with claim 1: said camcorder having a housing having a forward portion defining a closed periscope compartment containing said periscope means (Pieri col. 7, line 59 – col. 8, line 30), a rearward

portion containing said image processing elements and an underside portion dependent from said rearward portion, said binocular tubular body portions being attached to said underside portion of said camcorder housing, said periscope compartment including a window for entry of said incident light into said periscope compartment, said periscope compartment being structured to permit passage of said light to said image processing elements of said camcorder. Please read Jamel, col. 1, line 20 – col. 62 line 9; Pieri, col. 8, lines 5-22; and Kelly, col. 6, line 30 – col. 7, line 38.

For **claim 21**, Kelly, as modified by Jamel and Pieri, discloses in combination with claim 12: said image processing elements of said camcorder including an objective lens (not numbered), said window being said objective lens of said camcorder. In Kelly, please see fig. 5 and read col. 6, line 30 – col. 7, line 38.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571)272-7316. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carramah J. Quiett/  
Examiner, Art Unit 2622  
June 23, 2008

*/Ngoc-Yen T. VU/  
Supervisory Patent Examiner, Art Unit 2622*